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Good afternoon Senator Winfield, Representative Tercyak and members of the Labor and Public Employees Committee. I am here to testify in support of SB 428, AN ACT PROTECTING INTERNS FROM WORKPLACE HARASSMENT AND DISCRIMINATION, SB 435, AN ACT PROHIBITING NONDISPARAGEMENT CLAUSES IN PUBLIC EMPLOYEE SEPARATION AGREEMENTS, SB 383 AN ACT CONCERNING WORKFORCE PARTICIPATION THRESHOLDS FOR PUBLIC WORKS CONTRACTS, and SB 431 AN ACT CONCERNING FOREIGN WORKER RECRUITMENT FEES.

SB 428, AN ACT PROTECTING INTERNS FROM WORKPLACE HARASSMENT AND DISCRIMINATION

As the job market has become more competitive, there are many more people seeking internships. Many of them are unpaid. The New York Times reports, "[e]mployment experts estimate that undergraduates work in more than one million internships a year, an estimated half of which are unpaid, according to Intern Bridge, a research firm."[1]

Unpaid interns are among the most vulnerable to discrimination and harassment at work because they have no protections for speaking out against bad actors. Interns seek to make good impressions in the hopes of being hired permanently, network with colleagues, and receive good references for other job applications. This creates an environment where interns can be subject to exploitation. Connecticut does not currently protect interns from harassment, discrimination or retaliation in our statutes because they are not considered to be "employees" under our state law.

At its core, Senate bill 428 is about safety in the workplace. Everyone in a workplace should feel safe and protected. This proposal will go a long way in preventing the exploitation of interns by clarifying that harassment and discrimination against interns is illegal. Technically, right now an intern could file an internal complaint or, if the situation is criminal in nature, an intern could press criminal charges, but he or she would not be protected from workplace related retaliation for doing so.

Last year the Connecticut legislative employee handbook was revised in an effort to protect "third parties" from harassment; (ie. interns, lobbyists, and other citizens who come to the capitol complex). This year, the legislature amended the Joint Rules to specifically incorporate this employee handbook policy. Senate Bill 428 would ensure that interns across the state, no matter what type of workplace, will be protected under our laws.

In 2013, a court case in New York brought to light that unpaid interns are not considered employees for purposes of sexual harassment lawsuits under New York's human rights law. To rectify this lack of clarity, New York, joining California and Oregon, enacted a statute to protect interns from harassment and discrimination. Illinois and Washington, D.C. have provisions protecting interns from workplace harassment, but not discrimination.

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[1] Steven Greenhouse, "Judge Rules That Movie Studio Should Have Been Paying Interns," The New York Times, June, 11, 2013.

With Senate bill 428, Connecticut would join these states. We would unequivocally protect interns from both harassment and discrimination. The bill would not, however, render unpaid interns "employees" generally, under other Connecticut laws.

SB 435, AN ACT PROHIBITING NONDISPARAGEMENT CLAUSES IN PUBLIC EMPLOYEE SEPARATION AGREEMENTS

Non-disparagement clauses are most common in employer-employee relationships at private companies and upon an employee's departure. They generally exist because businesses need to safeguard their proprietary information, formulas, business plans and strategies, and to enhance or maintain a business' reputation in a competitive marketplace. However, in the public sector, non-disparagement clauses arguably defy our laws requiring public sector transparency, or at least fly in the face of the spirit of such laws.

This issue arose very recently in Connecticut, with the sudden resignation of Michael Gargano, who was Provost for the Connecticut State Colleges and Universities system for only ten months, from December 2013 until his sudden resignation on November 11, 2014. Apparently, part of Gargano's resignation included the signing of a separation agreement which: 1) allowed him to continue being paid his biweekly salary of $8603.31 for nearly 16 weeks, from November 11 through Feb. 28, 2015 and 2) contained a "non-disparagement clause", which apparently prohibited him from publicly discussing the circumstances of his departure.

The Hartford Courant, in a December 10, 2014 editorial, criticized the separation agreement, and its non-disparagement clause, as "a way of keeping public information from the public, [which] should not be part of government work."

I believe the Courant, and other media outlets which criticized the use of a non-disparagement clause in the controversial departure of a high ranking public official, were correct. Senate bill 435 prohibits these types of "non-disparagement" or gag clauses for state employees, even when such employees receive extra monetary consideration for their enactment. Such clauses are an unacceptable affront to Freedom of Information and open government principles.

SB 383 AN ACT CONCERNING WORKFORCE PARTICIPATION THRESHOLDS FOR PUBLIC WORKS CONTRACTS

SB 383 would require that state public works contracts use the diversity standards that are currently used by the City of New Haven. Connecticut General Statutes Sec. 46a-68d currently requires every contractor on a state public works project to have an affirmative action plan approved by the Commission on Human Rights and Opportunities. However, it is my understanding that the goals are not particularly demanding and that there is not sufficient on-site monitoring. The City of New Haven has more demanding workforce diversity standards for contractors who hold contracts with the City than the state does for its contractors. Specifically, contractors must comply with standards for each class of work listed in the contract that require that 25% of the individuals be from a minority group and 6.9% of the individuals be female. The City, through the New Haven Commission on Equal Opportunity, has enforcement mechanisms and staff trained in this area. This issue is particularly important for state contracts in urban centers; the diversity of the contractors' workforces should attempt to mirror the diversity of the city's residents. It was evident during the Gateway construction project in New Haven that the actual workforce diversity was minimal. Contractors who receive state contracts should be held accountable to provide equal employment opportunity in their workforces. Holding contactors accountable to hire a diverse workforce in our urban areas would be a positive step toward

alleviating the high unemployment that many of our urban centers face. If it is not possible to move all state public works contacts to this standard, I would support a pilot project using this standard on contracts at Southern Connecticut State University.

SB 431 AN ACT CONCERNING FOREIGN WORKER RECRUITMENT FEES

SB 431 would increase protections for foreign workers who are brought into the United States by foreign labor contractors. These contractors are increasingly relied upon to facilitate the movement of labor from one country to another. While many foreign labor contractors behave ethically and are engaged in lawful conduct, some foreign labor contractors become complicit with, or are directly involved in, the illegal trafficking of foreign workers.

The EEOC has brought several recent cases against these contractors[2].

These foreign labor contractors often charge exorbitant fees for their services which forces these foreign workers into debt bondage. Some of them have been shown falsify documents, and deceive foreign workers about the terms and conditions of work, thus increasing the workers' vulnerability to human trafficking. It would appear that the incidence of known human trafficking cases involving foreign labor recruiters is increasing in the United States such that better regulation of foreign labor contractors is warranted.

This bill would expand the regulation of the activities of foreign labor contractors in the same manner that California has done. The California law includes provisions that:

(1) Require foreign labor contractors to register with the appropriate state agency.

(2) Require disclosure of the use of foreign labor contractors, and their agents, by persons seeking to employ foreign workers.

(3) Impose penalties on a person using an unregistered foreign labor contractor to obtain foreign workers or employees.

(4) Expand the remedies available to foreign workers aggrieved by the actions of foreign labor contractors and those acting in concert with them.

I believe that this bill would create much needed protection. Thank you for hearing these important bills.

I urge you to support these bills. Thank you for your consideration.

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[2] *EEOC v. Global Horizons, Inc. d/b/a Global Horizons Manpower, Inc., Captain Cook Coffee Company, Ltd. et al.* Case No. CV-11-00257-DAE-RLP and *EEOC v. Global Horizons, Inc. d/b/a Global Horizons Manpower, Inc., Green Acre Farms, Inc. et al*, Case No. 2:11-cv-03045-EFS Ithe first one in Hawaii and the second one in Washingotn).
As well as *EEOC v. 704 HTL Operating, LLC* 11-cv-00845 JCH/LFG